

MINUTES
WARRICK COUNTY AREA PLAN COMMISSION
Regular meeting held in Commissioners Meeting Room,
Third Floor, Historic Court House,
Boonville, IN
Monday, March 12, 2012, 6:00 PM

PLEDGE OF ALLEGIANCE – A moment of silence was held followed by the Pledge of Allegiance

MEMBERS PRESENT: Guy Gentry, President; Amanda Mosiman, Mike Moesner, Brad Overton, Marlin Weisheit, Larry Willis and Jeff Valiant.

MEMBERS ABSENT: None.

Also present were Morrie Doll, Attorney, Sherri Rector Executive Director and Sheila Lacer, Staff.

MINUTES: Upon a motion by Marlin Weisheit and seconded by Brad Overton, the Minutes of the last regular meeting held February 13, 2012, were approved as circulated.

The President explained the Rules of Procedure to the audience.

SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:

PP-12-01 –The Replat of Lot 6B of the Replat of Lots Six (6), Seven (7) and Outlot A of Bell Oaks Centre, by SM Properties, L.P., a Missouri Limited Partnership, by Mark J. Schnuck, Pres. 1.16 acres located on the E side of Bell Road (W 850) approximately 500’ S and 100’ E of the intersection formed by Bell Rd & SR 66, Ohio Twp. (Complete legal on file.) *Advertised in the Boonville Standard February 28, 2012.*

Marco Delucio, Attorney for SM Properties was present.

The President called for a staff report.

Mrs. Rector said they have submitted the return receipts from certified mail. She said this property is zoned “C-4” General Commercial and there is no required minimum lot area for commercial zoning per ordinance. She said there is no flood plain on this two lot subdivision. She said the County Commissioners agreed to no additional improvements to Bell Road and the lots front on existing private street. She said the Drainage Board approved that no additional drainage plans be required from the original subdivision plans. She said Chandler Water has lines in place and available and Newburgh Sewer has lines in place as well. Mrs. Rector stated this is a subdivision of Lot 6 B of the Replat of Lots 6, 7 & Outlot A of Bell Oaks Center. She said they have indicated they have someone who wants to purchase only a portion of the lot and so they have filed this subdivision. She said the only question she has is that she was sent a plot plan from the company who wants to purchase the lot and on the plot plan they are showing an ingress/egress easement in the back. She said she knows that Schnucks used that as their loading docks there and you can see it in the aerial photos. She said she wants to make sure they show that on the plat since the plot plan is showing it. She said she wanted to bring that to their attention and so they can get with the owners. She said the plat is in technical conformity with the Subdivision Control Ordinance.

Attorney Delucio had nothing to add.

Mike Moesner asked which lot was being purchased to which he was informed it was Lot 6B-1.

Marlin Weisheit said the other lot has plenty of room as well.

Ascertaining there were no other comments from the Board and being no remonstrators present, the President called for a motion.

Marlin Weisheit made a motion to approve PP-12-10. The motion was seconded by Mike Moesner and unanimously carried.

REZONING PETITIONS:

PC-R-12-10 – Petition of Delta Properties, LLC, by Evan Beck, Mgr. to rezone 3.61 acres located on the N side of Rabbit Run Dr. approximately 325' E of the intersection formed by Grimm Rd. (W 1000) & Rabbit Run Dr., Ohio Twp. from "R-O" Residential Office to "C-4" General Commercial with a Use and Development Commitment. (Complete legal on file.) *Advertised in the Boonville Standard February 28, 2012.*

Evan Beck and Krista Lockyear, Attorney for Delta Properties were present. Ms. Lockyear said they did have ten green cards that didn't get returned as of Friday and so Mr. Beck went to all of them and had a waiver signed by those ten adjacent property owners. She submitted all of those to Mrs. Rector.

Mrs. Rector said the only one she is truly concerned about is the one from Phillip Behrens to which Mr. Beck stated he signed a waiver.

Attorney Doll said the waivers will be fine.

The President called for a staff report.

Mrs. Rector said they now have all of the return receipts from certified mail. She said this is a petition to rezone 3.61 acres from "R-O" to "C-4" General Commercial with a Use and Development Commitment which eliminates food locker and/or plants; monuments (sale and display only); pawn shop; sales and service of industrial equipment; self-storage warehouse facilities; sharpening and grinding shop; wholesale merchandise broker; wholesale and retail sales of bulk rock, sand and gravel; contractor equipment sales and service; freight or truck yard or terminal; industrial equipment rental facilities; welding supplies and equipment sales and service. She said all other uses will be allowed from the "C-4" down. She said there is no minimum required for commercial zoning and the Comprehensive Plan projects the area to minimum to high density residential. She said the property is currently vacant and the property to the north is vacant "C-4"; to the west is "C-4" being Grimm Road Commercial (Islamic Center); to the east is vacant "R-O", Residential Office; to the south is R-1 Wynbrooke Subdivision and vacant Agriculture to the far southeast. She added this property was rezoned to "R-O" in 2008 along with the other surrounding "C-4" and "R-O" zonings. She said there is some 500 year flood plain but nothing special is needed for construction. She said the property fronts on Rabbit Run Drive and any subdivision will provide internal streets. She stated the stated use on the application is commercial office development which would be allowed. Mrs. Rector said in 2007 there was an attempt to rezone this and some of the northern property to PUD with an "R-2B". She said that petition was withdrawn and then in 2008 they submitted a new application with "C-4" to the north and "R-O" along the south and east and stated this was to be a buffer between Rabbit Run and Wynbrooke Subdivisions. Mrs. Rector said in site review

they stated one of the uses will be a light assembly of electronic prototypes. She said they have received an email from Amanda Scurry, 4299 Wynbrooke Drive in opposition of this petition. She said they also have a letter from Larry Taylor, Executive Director of the Economic Development supporting this petition. She said both are included in their packets. Mrs. Rector said they have filed a primary plat consisting of 18 lots that will be heard by this Board at their April 9, 2012 meeting if it is in order to be advertised when they meet with them next week. She said they did not have a pre-sub meeting with them so they will have to make that determination next week but it has been filed.

Krista Lockyear said in 2007-2008 they did rezone this property to "R-O" and at the time it was anticipated that some senior living housing would go into the property which would be a nice buffer for the residential. She said the property has been on the market since then with the "R-O" zoning and it really – to credit what happened in Warrick County from Gateway, coming east in this direction the property is much more valuable than residential use here. She said if you drive down Rabbit Run Drive and the residences in Wynbrooke you can hear traffic from the expressway and you can see the traffic with the exception of the Islamic Center which blocks it. She said they feel this rezoning and the proposed development here being office development will also provide a very nice buffer for that residential development to the south. Ms. Lockyear said being offices at this point the traffic generated should be minimal, probably even less than what you would typically see in a residential development. She said standard office hours, one trip in for each vehicle and people car pool for lunch so traffic counts for offices generally tend to be lower at any rate. Ms. Lockyear said she has some artistic renderings to pass out so they can see the proposed development. (copies on file)

Ms. Lockyear said they do have the support of the Economic Development Department and they have been instrumental in working with her client Evan Beck and getting this company by the name of Ciholas to locate into Warrick County. She said Ciholas currently has about 28 employees and would like to expand to about 60 employees. She said she would like to introduce the company president, Mike Ciholas who can tell them a little more about the company and hopefully the wonderful addition to Warrick County.

Mike Ciholas said he is the President and founder of Ciholas, Inc. and the first question everybody asks him is what his company does. He said they develop high tech electronic products for various clients; other companies both in the area and around the U.S. He said they have developed the electronics that went into a bomb disposal robot that has been used in Iraq and Afghanistan. He said they have developed electronics that has timed the Olympic sporting events and they have developed electronics that do mine safety and protection systems. Mr. Ciholas said they are the kind of company that catalyzes other companies to incorporate high tech into their work so they can make them market leaders. He said his typical client is a small to medium size company that comes to them that doesn't have the high tech know how to get into the industry or expand their industry. He said they can add that little secret sauce to their business and increase their growth. He said his largest client right now is Matrix Design Group based in Newburgh and they have helped them become by far the biggest market leader in underground mine communication tracking and safety systems for the coal mining industry. He said they are also working with Engenics which is located in Newburgh and they also work with Chronotrack in Evansville which is a leader in sports timing for marathon races.

Mr. Ciholas said he is looking for a place to locate his business for a long time; probably for twenty-thirty years. He said the building will be built for a great deal of expansion of the business. He said they are now starting to hire people from outside this area and bring them here. He said his last three or four hires have been from outside this area (Ohio and Texas) and so they are beginning to provide a high tech footprint in the Warrick County area.

Guy Gentry asked how many people they intend to employ.

Mr. Ciholas said that is all client driven by the amount of workload they have. He said right now they are in the 20's level of employment and they are looking for a growth over the next five years to about 60 employees. He said they are designing the building to be somewhat larger than that; he doesn't know how much larger it will get. He said part of the plan is to leave a little bit of the acreage so if they need to grow further they can build another building. He said the initial design shows part of their lot to the south that will be left vacant and that might be future expansion.

Guy Gentry asked if they just do the prototypes or do they actually do all of the...

Mr. Ciholas said that is a good question about what are the activities that go on in the business. He said the vast majority of the business is engineering where they have 75-89% of the staff are engineers or college degreed experience people who sit down at a computer and engineer both mechanic and electrical software and other engineering that goes into making a product development. He said there is a small portion of the company that is involved in prototyping; these will be taking a design and making the first of or first 20-30 of – typically in that process for electronics, it involves a great deal of subcontractors and other vendors. He said they don't, for example, make circuit boards, they have services that do that. He said they don't solder the parts on the circuit boards in general, they have services that do that. He said when they do a prototype run of say 20-50 items they will get the parts in and they will do what you call a box build, take the box, put the board in, hook up the wires and do the testing and so forth. He said from the outside of the building there is no apparent activity that might be described as assembly going on. He said there are no second or third shifts, there is no industrial use of water, there are no emissions or heavy machinery or heavy freight.

Guy Gentry said so they have no semis coming in and hauling big stuff out daily.

Mr. Ciholas said not generally. He said they do get an occasional freight delivery, he thinks last year they had less than 40 freight deliveries for the whole year so that may be one a week. He said even at their largest size he can't imagine it exceeding one a day; that would be an extraordinary number for them. He said they just don't deal in a great volume of material. He said anything that actually gets made in volume is subcontracted to contract manufacturers; typically under the control of his clients; like Kimball in Jasper or Labarge in Pittsburgh.

Larry Willis said so this is more of a design engineering type of service.

Mr. Ciholas said they are design and engineers; essentially people pay for them to give them design files. He said the prototyping aspect of it is only so much as to realize the product so they can go into early testing for the customer or do trials to see what the errors and bugs are with the product. He said they do not as a rule manufacture items for sale, that is done typically under the direction of the client.

Guy Gentry said he would defer to Attorney Doll because he wasn't able to make the site review meeting but they did have some phone contact and want his opinion to if this fits within this zoning area.

Attorney Doll stated if it is an R & D center – it is really an engineering site if that is what he is hearing, they really don't have an exact fit within the County's zoning code. He said if it deals with precision instruments and unfortunately the ordinance doesn't say anything about manufacture or design it just says precision instruments that really falls within an "M-1" district. He said what he is concerned about is the Use and Development Commitment is wide open. He said it really is a very broad Use and Development; it limits just a named handful of items but then by reference it means that any other item in a "C-4" is permitted or in a "C-3" on down and so by the end of the day they have dozens of permitted uses. He said it abuts a neighborhood of residences and a religious institution. He commented the building looks sort of industrial in nature (as opposed to an office complex) by the drawings that were submitted but he realizes they are very preliminary but he has some concerns. He said he is wondering if they can make a finding of fact that it fits in the neighborhood; whether it is in the right district or not. He said he would think that if a very specific Use and Development Commitment were done saying this is an R & D center and not a manufacturing center and it deals with precision instruments or something of that sort...that might solve a lot of his heart burn over this project. He said he can't speak for Mrs. Rector but they have had conversations along this line.

Mrs. Rector said she and Mr. Gentry understood at the site review meeting was they would just be sitting at a desk; there wasn't going to be any assembly whatsoever, except the engineers putting it together. She said she was never contacted before this rezoning petition was filed to discuss what zoning that it should go into. She said she never had any conversations with anybody; the application was filed and she didn't know what it was for until they had a site review meeting a week later. She said so not trying to come back behind them but they didn't know until after the fact. She said they did call Attorney Doll the day of the meeting but she thought it was also his understanding.

Attorney Doll said dealing with precision instruments – and that sounds sort of like what the electronic devices this company designs really is, is under the "M-1" zoning. He said it doesn't say manufacturing them, assembling or designing them, it says precision instruments and that is a very imprecise definition.

Mrs. Rector said the first sentence of the "M-1" classification says it is for assembly, manufacturing of any of those items.

Attorney Doll said he knows but where does research and development fit in.

Mr. Ciholas said let him address that question. He said if they were in the Silicon Valley they would know exactly what he is trying to do because that is the kind of business they have everywhere around them. He said you don't have a nice little cubby hole for him to fit into here so he has to work within the system. He said he could be in an "M-1" zone but that is not really who he is; he is really a "C-4". He said his impact on the community is a "C-4"; there is a building, no retail foot traffic, exceptionally few external amounts of freight traffic, no third or second shift, no noises or lights, no emissions or so on. He said it is a building that will sit on a property with adequate setback all around the building on all four sides so it is not encroaching on anyone's property. He said it will be just a building there and they intend to make the building reasonably attractive although he is not going to spend a great deal of money on the building in terms of putting marble on it or anything like that. Mr. Ciholas said since he doesn't really fit

within the code book exactly they have to find the appropriate zoning to put him in. He said that is one of the challenges of high tech in this area in that it is not something that is done a lot. He said they are establishing a footprint in Warrick County to bring not only high tech into the area but to also catalyze the other companies around him by providing that resource to them. He said from his perspective they prefer to be in a “C-4” zoning because a “C-4” zoning is the kind of neighbors they would like to have; they don’t want an “M-1” neighbor because they are a lot of people sitting at their desks doing engineering and they don’t necessarily need an asphalt plant or a chemical plant next to them because that is not really appropriate.

Guy Gentry asked if there is an issue to fine tuning the Use and Development Commitment to be more specific to what they are actually going to be doing other than the exclusions that leave it open for a lot of different things if in six months down the road they leave.

Mr. Ciholas asked what is it they...he doesn’t know the code like they do but on the one hand he knows the specific kind of things he is going to be doing. He said on the other hand he does want to preserve his value in the land and building in case he should ever move out of it to even larger quarters and he doesn’t want a ball and chain around that building to where it can’t be used by the next tenant or the next owner so he would like to get a sufficiently comfortable committed use development decree with them but not too limiting so that a similar company or a company that has similar impact on the community could use it in the future. He said otherwise he is investing a lot of money into something that maybe he can’t get out of it because it is too restricted. He said he has listened to the use decree and all the things that are not permitted in there and those are all perfectly acceptable but it still leaves open quite a general list of uses all of which he thinks are compatible with the area.

Mike Moesner said he hears what he is saying and they haven’t really dealt with that kind of specific use before and from what he is hearing it sounds to him like it would fit better in the “R-O” zoning than the “M-1” because that is manufacturing. He said here they are more doing computer work.

Mr. Ciholas said he would like to give them an analogy; there is a typist and an author, the typist could be considered manufacturing because they are printing things. He said they “type” as a sort of way of evoking the product; they prototype it like a typist does but they are really the author because they are coming up with the novel parts. He said so in this case they are not manufacturing, they don’t make thousands of things and then have trucks coming in and out to ship them that never happens. He said they still type – they make the prototypes – so the customers can use them.

Larry Willis said so they do need a clean environment for the computers and electronic equipment. He said the “M-1” zoning could be a dusty environment and they don’t want the noise because they are a quiet facility.

Mr. Ciholas said quiet is in fact one of the most precious resources available. He said additionally, when he interviews people from outside who is coming here he will say this is the building where they will be working and if it is next to an industrial plant they are likely to say they don’t want to work there. He said so to attract the talent that he wants to attract they have to have a nice place for people to work.

Larry Willis asked what size the building footprint is.

Mr. Ciholas said they are looking at somewhere at about 35,000 square feet – it is all a question of how much money he has left at the end of the day.

Mrs. Rector said he is not buying the entire area that is being rezoned this evening from “R-O” to “C-4” ...

Mr. Ciholas said he is buying most of it but there is a neighboring lot that is included in this zoning.

Mrs. Rector said so the Use and Development Commitment isn’t just covering the lot he is buying and that is a question the owner will have to answer whether to amend that.

Attorney Doll commented that this could be a “C-1” district if it is a design center; it could be a professional office.

Mrs. Rector said you can have offices in the “R-O” zoning and it wouldn’t have to be rezoned.

Attorney Doll said so he is wondering why...

Mr. Ciholas said most of the property is currently zoned “C-4” so they are including the “R-O” part to make it contiguous “C-4” for the whole parcel.

Attorney Doll stated the problem with the “C-4” is they can have all kinds of things in a “C-4” that are not excluded in the Use and Development Commitment. He said he is worried they are up against one neighborhood, not very far from another neighborhood and adjacent to a religious center and “C-4” is a pretty intensive use.

Krista Lockyear said she would like to speak to Use and Development Commitment they have in place. She said this Use and Development Commitment was developed for the property across the street and was applied to she believes the Arbor Development “C-4”. She said back when Mr. Beck rezoned the existing “C-4” this is the Use and Development Commitment they utilized so going to this Use and Development Commitment having previously been approved and accepted and not really objected to at that point it made sense to them and that is where they landed with this Use and Development Commitment. She said the other thing about this real estate that she alluded to earlier is what is happening in Warrick County from Gateway on east – this is the highest and best use of this property. She said it is expensive land and they can see from the designs and hear from Mr. Ciholas telling them about his company it is not your typical “C-4” real estate and Mr. Beck’s future plans for development aren’t just general “C-4” uses it is going to be put to good use.

Brad Overton asked if they reached out to the surrounding neighbors or the Islamic Center and had any conversations with them.

Mr. Ciholas said he has met with Dr. Hussain of the Islamic Center and found him to be a very reasonable person and believes he will be a quite excellent neighbor and he believes his business will cause the center no discomfort. He said they may even have some symbiotic advantages to their place. He said for example he could easily see them having an arrangement with their parking lot which would be empty at some of the peak times the center needs additional parking.

Brad Overton asked if he felt it would create any disturbance.

Mr. Ciholas said he didn't say anything to him but he can't speak on his behalf.

Guy Gentry said by the drawings the presented it looks to him like..

Discussion ensued over the area being rezoned in connection to where the building would be constructed. It was discussed where the existing "C-4" zoning is located.

Attorney Doll commented that rezoning this property from "R-O" to "C-4" takes away the buffer from the residential straight to commercial property.

Mr. Ciholas said that condition already exists on the northern edge of the property.

Attorney Doll said the difference in the character of that neighborhood is that it is right up against SR 66 which is a six lane highway with 55 mph traffic.

Evan Beck stated he is part owner of Delta Properties and is going to try to answer some of the questions. He said the Islamic Center sits on about five acres and is on the northeast corner of Grimm Road and Rabbit Run Drive. He said that property is zoned "C-4". He said one of the largest property owners that is a neighbor to them is Phillip Beherns, who Mrs. Rector questioned regarding the notice. He said he met with Mr. Beherns yesterday and he owns all of the vacant property immediately south of the Islamic Center. He said they reviewed the plans together in regards to the use of the property and type of building and at that time he didn't have any problems with what they are proposing. He said he is a resident and home owner in Wynbrooke Subdivision which south and adjacent to this property. Mr. Beck said his neighbor, Mr. Webb lives at the corner of Wynbrooke Dr. and Rabbit Run Dr. has been in contact with them specifically about this rezoning and project and actually gave them encouraging remarks and that is the neighbor by far the most impacted. He said with that being said, as the developer, you develop a commercial subdivision it is absolutely critical if you have the opportunity to sell a piece of property, you sell it to an owner like Mr. Ciholas that is going to be complementary to their goals and objectives for them as the developer and the community. He said his headquarters is in Newburgh and they developed Interstate Office Park at the southwest corner of Lincoln Avenue and I-164 and they fully understand that if you get a bad user in the heart of your development you are blowing your own foot off. He said he has spent a lot of time with Mr. Ciholas understanding his business and the practices he will be conducting within the real estate and as the owners they are very comfortable with it. He said it is absolutely the type of company Warrick County is trying to attract in regards to economic development in regards to high paying high quality jobs. Mr. Beck said it is a company that has a long standing performance track record in Vanderburgh County so they are very excited about it. He said the design of the property, in regards to access, if they notice the access will be coming from the north (from a proposed street) off Grimm Road. He said that street is part of a primary plat that will be coming to them in the future. He said they are making an attempt to take the commercial traffic off Rabbit Run Drive onto a new road. Mr. Beck said Mr. Ciholas can locate his business on this property without the rezoning but to try to meet his objectives for growth and hire more people he wanted more land and that land happens to be currently zoned "R-O". He said this is a great opportunity for the county to attract this company to this location and he truly feels as a homeowner in Wynbooke Subdivision that this will be a good use as a neighboring business.

Attorney Doll said 50% of the property they are attempting to rezone tonight they have no idea of what will ultimately be used for.

Mr. Beck said that is correct; the corner lot to the east of the proposed Ciholas property is currently “R-O” but as a developer looking at this that is going to end up being one point some odd acres of “R-O” and he thinks for the highest and best use for the future of this development it would be wise to take it to “C-4”.

Attorney Doll said but they don’t know what it will be used for in the “C-4”. He said the restrictive uses they have on it are pretty limited. He said they are not something you would build on property of this cost. He said a grinding shop or pawn shop – this is expensive real estate and those are not likely uses to be there. He asked if it is possible that the applicant could use more of the current “C-4” zoned property and shift the boundary lines or make it east to west instead of north to south and not change the “R-O” zoning to “C-4”.

Mr. Beck said he thinks that could occur but through a lot of their discussions before tonight’s meeting, the most optimal use and design is the way they are presenting it this evening.

Attorney Doll said they are going from an “R-1” (Wynbrooke) to a “C-4”.

Mr. Ciholas said it was in his interest to maximize Mr. Beck’s value and if he were to take more of his current “C-4” zoned – the closer he got to the Lloyd Expressway (SR 66) and the more of the “C-4” that he took it lowered Mr. Beck’s return on his investment and it lowered the potential of getting other businesses in there. He said he wants to maximize Mr. Beck’s potential as well as his and so they organized his property essentially as a buffer between his development and the Islamic Center and the residential. He said for example if you were to put a high traffic restaurant like a McDonalds on that area you would generate far more impact on the residential community than his sleepy little development company where people come in from the north side, park, go inside and come out eight hours later and go home. He said that is their entire impact on the community.

Guy Gentry said that is the exact point they are making; that corner could become a McDonalds if it were a “C-4”.

Attorney Doll said it is the most intensive commercial use of a piece of property in Warrick County.

Mr. Ciholas said he is only addressing the question of why the property is north/south instead of east/west for his particular parcel.

Guy Gentry said they have not 100% ruled out that his business couldn’t expand on into the “R-O” zoning as a research and development since they don’t have a criteria for it and they feel that is the best fit they could make that decision.

Attorney Doll said and then they won’t have to change the zoning.

Mr. Beck said that has what has been challenging for them because as it stands today he could go in there and build an office building and have people working on computers doing nearly the exact same thing Mr. Ciholas is asking for.

Amanda Mosiman said she doesn’t think any of the Board members have a problem with what he is going to be doing and they want it, the question at hand is the other half of the “R-O” that he will not be utilizing.

Attorney Doll said or the next user of this property.

Amanda Mosiman said that is the concern. She said they just want to make sure that the interest of that property in the future is covered.

Guy Gentry said there was a real intent there when the “R-O” went in as a buffer.

Attorney Doll said “R-O” zoning is for engineering offices and asked why they are rezoning.

Mr. Beck said he was told to.

Mrs. Rector said the Plan Commission didn’t tell him to. She then said looking at the aerial photo that is showing where the building is going in comparison to the Islamic Center and the zoning layout, the building is in the existing “C-4” zoning.

Mr. Beck said for a contiguous land owner you can’t have mixed zonings on one lot.

Mrs. Rector said you can but you have to abide by the zoning regulations where the building is. She said they would be fine with what Mr. Ciholas is doing with Attorney Doll saying it could go in an “R-O”. She said she isn’t looking at anything that has dimensions.

Mr. Beck said to protect Mr. Ciholas’s investment and potential for future growth they felt the “C-4” zoning was required to accomplish this project.

Attorney Doll said they have every right to ask for the zoning if they wish to do so and it is up to the Board to decide whether to approve it or not.

Mr. Beck said they have spoken to the neighbors and they have received no negative comments and to his knowledge they have had one remonstrative email. He said he thinks that speaks volumes as well. He said and the fact that he lives in the neighborhood to the south – he doesn’t see how he would be blowing his own foot off.

Guy Gentry called for remonstrators.

Being no remonstrators he called for further comments from the Board.

Larry Willis questioned the drawing they presented by asking how close the proposed street will be to SR 66.

Evan Beck said it is as far south from the intersection of Grimm and SR 66 as they can make it until the Islamic Society property starts; he thinks it is 600 linear feet from the intersection. He said Grimm Road is planned to be expanded to a three lane road to match what is north in Arbor Pointe.

Marlin Weisheit said he definitely wants to see this go but do they think they could reduce the acreage off Rabbit Run and still leave a little buffer.

Discussion ensued over the depth or the “R-O” zoning.

Mrs. Rector said usually the buffer or the Use and Development Commitment protects the residential zoning. She said she doesn't know if Mr. Beck wants to revisit the Use and Development Commitment or not.

Mr. Beck said they filed the one they utilized before and it has been utilized in other "C-4" areas as well.

Mrs. Rector said what they are saying is that "R-O" was a buffer and now he is taking it away and that is the concern.

Marlin Weisheit said the other thing is if they did rezone it, before they build on or head it toward Rabbit Run they would have to get a building permit and he is sure ...

Guy Gentry said once it is zoned they can put whatever the zoning says will fit.

Attorney Doll said it would be arbitrary and capricious to deny them a permit. He said this is the time they need to think about this project; not when they come in and ask for the permit.

Krista Lockyear said she would like to point out that if they think back to 2007 and how that "R-O" strip came about – at that point in time they were looking into senior living and they created the buffer – it was not...

Evan Beck said they had a contract that could not get financing for the senior living.

Ms. Lockyear said she doesn't want the conception to be that there was this demand for that "R-O" section to be there, they did it to themselves and have found it is not very marketable.

Attorney Doll said except as they sit here today the engineering services that the gentleman is describing is a permitted use in the "R-O" district. He said it is a preferred use.

Mr. Ciholas said the question is how you define engineers or engineering. He said they do product development which is not necessarily just the performance of engineering it is evaluation of product; it is prototype assembly and so forth and so when he reviewed the "R-O" zoning it wasn't clear to him that it was an exact fit for his activities or the activities that occur inside the building so as a condition of the sale of the property, he asked Mr. Beck to rezone the entire parcel to "C-4" so there would be no debate or concern that all of their activities, not just the engineering, would be appropriate. He said they felt that a "C-4" zoning for the entire parcel was appropriate for them.

Attorney Doll said they would have to admit there is no research and development even in the "C-4"; the County doesn't have a category for that. He said that is unfortunate and needs to be addressed but "C-4" doesn't have a research and development permitted use specifically listed either.

Mr. Ciholas said when he looks at the code book he kinds of thinks when they say engineering they mean the kind of thing an architect would do or a soils engineer would do; someone who has a professional type office.

Attorney Doll said or an electrical engineer who designs products or computer products.

Mr. Ciholas said if you want to think of some of their activities as similar to a computer repair shop which deals with circuit boards and components and they do that for prototype assembly. He said he perceives

that word “engineering” encompasses where the activities were not performed on site but the thinking was. He said a soils engineer doesn’t go into his front yard and drill holes; it is sort of like a lawyer or doctor office where you have services performed but there are no other activities. He said that was his concern as how that would be interpreted and so he asked for the entire parcel to be “C-4” and no questions about their activities asked.

Larry Willis said he said before that in the future they may expand; will they expand to the south or to the east.

Mr. Ciholas said he assumes that when he is ready to expand Mr. Beck has sold all of the property but the actual answer to that is on the south portion they will build another building; probably one that will be a two story office building and the other building will become more of the shop/tech type building. He said he isn’t making any commitments to that vision.

Larry Willis said he understands and this is Mr. Ciholas’ industry and knows what footprint will work for him.

Mr. Ciholas said he wanted to find a piece of property in Warrick County for the tax and business friendly environment he finds here. He said he wants to find a parcel big enough to put a footprint down now that could allow him to double or triple in size and then have expansion beyond that in case he needs to get larger. He said if he has to get larger than that then he will have to find a new location but finding locations is a very complicated and time consuming thing and he wants to do it as few times as possible.

Ascertaining there were no other questions from the Board, the President called for a motion.

Amanda Mosiman made a motion to recommend approval of PC-R-12-10 to the County Commissioners. The motion was seconded by Mike Moesner. Brad Overton voted against the motion and all other members voted for the motion.

The petition was informed this will be forwarded to the County Commissioners with a recommendation of approval on Monday, April 9, 2012 at 4:00 p.m. in the Commissioners Meeting Room, Courthouse, Boonville, Indiana.

AMENDING ORDINANCES TO THE COMPREHENSIVE ZONING ORDINANCE: *Advertised in the Boonville Standard February 28, 2012.*

AN ORDINANCE TO AMEND ARTICLE XXI DEVELOPMENT REGULATIONS SECTION 5 REAR YARD (Additional Requirements) OF THE COMPREHENSIVE ZONING ORDINANCE FOR WARRICK COUNTY, INDIANA

The purpose of this Ordinance is to remove the 20 foot height restriction for unattached accessory structures.

Mrs. Rector said this was discussed at the last meeting and it used to say the unattached accessory building couldn’t exceed 20 feet and so what she has done is change the wording to read *an accessory structure not exceeding the maximum feet in height of the zoning district in which it is located. See Table B.* She said that way they don’t have to change the table. She said she also changed the wording from accessory building to accessory structure.

Ascertaining there were no questions from the Board the President, called for a motion.

Mike Moesner made a motion to approve the amending ordinance. The motion was seconded by Jeff Valiant and unanimously carried.

AN ORDINANCE TO AMEND ARTICLE XXI SECTION 2 TABLE B BY ADDING STANDARDS FOR UNATTACHED ACCESSORY STRUCTURES OF THE COMPREHENSIVE ZONING ORDINANCE FOR WARRICK COUNTY INDIANA.

The purpose of this Ordinance is to add unattached accessory structures to the heading of the table.

Mrs. Rector said they don't need to act on this ordinance because this one was done before she decided to change the previous ordinance and they are not changing the table.

OTHER BUSINESS:

Formal Complaint ~ Revis Rainey – 2288 N SR 61 ~ Determination on violations

Revis Rainey approached the podium stating he needs to have this postponed because he is under the influence; he took his nighttime medicine for his hip because he has to have a hip replacement. He said his nighttime medicine makes him groggy and he has to take it between 5:00 pm and 5:15 pm.

Mrs. Rector asked if he could possibly sit down in a chair and let her give her report to the Board.

Mr. Rainey said he is under the influence and he isn't going to answer any questions.

Guy Gentry said that is fine. He said they are going to look at what they have.

Mrs. Rector stated a complaint was filed January 26, 2012 stating *the property at 2288 SR 61 N is within the Stonehaven Subdivision. This is an R1-A zoned residential area and does not permit the operation of a commercial business. This property is being used to operate a wood pallet business which is not allowed. Also, the owners have chickens on the property in violation of the zoning. This business use and livestock on the property is unsightly and devalues the other residential properties in the subdivision please inspect and review the use of the property and if found in violation have this use of the property be stopped. Additional there are several vehicles on the property that have not moved for months and appear to be in operable. Further there is a commercial semi-tractor vehicle parked on the property that is in violation of the residential zoning use.* She said the complaint was signed by four residents of the subdivision making it a public requirement. She said the Zoning Inspector went to the property January 27, 2012 to do an inspection and take photos; he reported there are pallets in the yard as well as unlicensed vehicles. She said he reported he did not see any chickens but he didn't go into the back yard. She said a letter was sent to Mr. Rainey on February 14, 2012 informing him of the complaint and telling him that it appeared by the photos submitted that this could fall under the definition of a "public nuisance" per the zoning ordinance. She said he was also informed it appeared he may be operating a commercial type business which is not allowed in the "R-1A" zoning and also a junk salvage yard would require an "M-2" zoning to allow the inoperable vehicles. Mrs. Rector added the letter informed him this would be placed on the

March APC Agenda for a ruling from this Board and he could present any information he has prior to the meeting and it would be forwarded to the attorney and Board members. She said he was also informed he must be present at this meeting. She said on February 26th one of the complaints emailed pictures of the chickens that are being kept in the back of the residence. She said Mrs. Rainey telephoned the office on Friday, March 9th and asked if she could attend the meeting for her husband because he has a hard time walking and she was told she isn't an owner of record according to the deed and he would need to attend. Mrs. Rector stated the zoning inspector went back to the property today and took pictures and reported that nothing has changed from his previous inspections; there are still wood crates, un-tagged cars and miscellaneous junk in the front and back yards. She said that Mrs. Rainey did also tell staff that her husband collects these pallets to burn at the river and he collects items around the house and this has accumulated but what she told staff they are not running a commercial business he just collects them to use at the river camp. She said they have pictures from every inspection and what the neighbors have submitted.

Guy Gentry asked what the Board wished and added they can see what they have.

Mike Moesner asked if the brick home in one of the pictures belonged to a neighbor to which it was explained it was.

Brad Overton said he would say give him thirty days to come into compliance.

Marlin Weisheit said if he was a neighbor he would be pretty upset too.

Guy Gentry said that only explains the unlicensed, inoperable vehicles and he guesses they need to send a letter.

Attorney Doll said they sent a letter on February 14th.

Guy Gentry said he means as far as their ruling because they are giving him 30 days to come into compliance and this is what they expect.

Attorney Doll said he thinks it is full compliance is it not; he means to no longer fit the definition of a public nuisance per the County Ordinance and State Statute, to remove the inoperable, unlicensed vehicles, not operate a business, not operate a junk or salvage yard and to not have commercial vehicles (semi) in a residential zoning. He said it would seem to him the motion needs to address all of those and to identify them so he knows what is expected of him.

Mrs. Rector said a lot needs to be cleaned up.

Guy Gentry asked if she could do the letter to which Mrs. Rector said she can and she will send it to Attorney Doll first.

Brad Overton made a motion to grant Mr. Rainey 30 days to come into compliance in regards to the ordinances he is in violation of; the junk salvage yard, public nuisance; inoperable vehicles; commercial enterprise being run in a residential zone; commercial vehicle on property and livestock in a residential zone.

Mrs. Rector said so they can keep it straight, when he says 30 days does he mean the next meeting and they need to have an inspection before then or does he want it cleaned up a week before the meeting or does he want him to be at the meeting.

Attorney Doll suggested it be cleaned up by the Friday before the next meeting.

Marlin Weisheit said that would be April 6th and he would second the motion for that.

Brad Overton amended his motion to come into compliance by April 6, 2012. Marlin Weisheit seconded the motion and it unanimously carried.

Formal Complaint ~ Frank Schnell dba FIT Tire Recycling, OWNER OF RECORD: J.H. Service Co., Inc., by Ronald Witt, Sr., Pres. ~ Tire storage

Frank Schnell was present.

Mrs. Rector stated this property was rezoned by the Commissioners July 13, 2009, from “M-1” Light Industrial to “M-3” Solid Waste disposal zoning district. She said at the Plan Commission meeting held June 8, 2009, Mr. Schnell stated that there would not be any tires outside of the existing buildings except when they bring trailers in to unload. She added he said that they could (by IDEM) store 1000 tires inside and 1000 tires outside. (Copy of minutes in file); however his Use and Development Commitment stated that he would go under the “M-1” zoning by keeping everything enclosed within a building or fence. She said on September 21, 2011, a complaint was filed regarding “mosquito problem and the number of tires held at the property”. She said on September 28th the zoning inspector went to the property and stated he found the complaint to be true and the area is full of tires. She added the inspector did say that they told him they were getting a new tire recycling machine and the property would be cleaned up shortly.

Mrs. Rector said on January 27, 2012, the inspector revisited the property and said “this property has not been cleaned up. Tires are still stacked everywhere.” She said on February 14th Mr. Schnell was sent a letter informing him of the violation and that he must appear at this meeting. She then added that on February 29th Steven Groves phoned the office and stated that he was to supply Mr. Schnell with a new shredder which is in the process of being assembled that is being purchased with grant money, however, it is not ready and he is going to see that the 4000 semi-tires will be cleaned up. She said it is her understanding that the shredder was to be delivered back in September/October. She said Mr. Groves said that he was contacting a company in Louisville to come and get the tires. She added he said he was doing this because he hadn’t got the shredder finished yet.

Mrs. Rector said Mr. Schnell called the office about this as well and she explained to him and Mr. Groves that Mr. Schnell is the one in violation and the shredder problem is between the two of them. She said she spoke with a representative with IDEM who said Mr. Schnell is in violation of his permit with them and that they are trying to work it out with him also to come into compliance. She said they told her he did receive a grant to purchase a shredder which has not been delivered and they did an inspection on December 14, 2011 and gave him 40 days to come into compliance with several items. She said they told

her they have submitted it to the enforcement division and will do another inspection by the end of March hopefully. She said they did try to go to the property after the December inspection however it was locked up so they could not complete the inspection. She said if Mr. Schnell does not comply with IDEM regulations he will then be turned over to a different section of IDEM which will then try to reach an agreement with him before they are forced to impose fines; this agreement will be a legal document giving time lines. She said the December report stated there are approximately 2795 waste tires on site, not including waste tire components for stored legitimate re-use. (Copy of report on file)

Mrs. Rector stated she received a phone call from a man on March 5th saying that he was going to try and work out an arrangement to get the tires; however, he would not get them all by this meeting. She said Mr. Schnell also called that day and said he was working with Liberty Tire and Deer Path Tire to get the tires and also said he couldn't get it done by this meeting. She said she told him that he should try and have some kind of contract or arrangement with someone by this date and ask the Board to give him a certain amount of time to get rid of them.

Mrs. Rector added the zoning inspector went to the property this morning and stated "I have inspected Fit Tire. The property looks the same as the last time I inspected it. There are tires and trailers all over the property." She said he met with Mr. Schnell's wife and son who informed him that they do have Liberty Tires removing the tires. She said one of the photos shows a Liberty Tire semi on the property. She said the inspector didn't get a chance to speak to Mr. Schnell himself, he was told he was in the building sick and didn't want to speak to him and so he didn't get to go inside the building. She said she doesn't know the arrangement they have with Liberty Tire or a projected time period for the tire removal.

Mrs. Rector said she was handed an email this evening by Isaiah Schnell. She said the email is from Thomas E. Leas, IDEM saying "Isaiah, thank you for helping with the project. Per correspondence from Liberty Tire, two loads have already been prepaid to take 3,000 passenger tires from F.I.T. starting this week. Another load will be taken on credit. Steve Groves has indicated that additional arrangements are being made to take the remaining tires. Liberty Tire or another company will take the truck tires. Complete removal may take 30 days if normal route logistics are used to minimize cost. Mr. Grove hopes the Warrick County Commissioners will allow F.I.T. another month to remove the tires beyond the March 12 due date. Continued operations are needed to generate income. Activities include sorting and shredding tires. Plans are to keep the existing shredder in operation with new knives until a different shredder is completely refurbished and ready for operation, which could be several months longer. The attached document gives support details for removing the stockpiled tires. Other support letters will be forwarded to you when received." (Copy on file)

Mrs. Rector said the attached document is to Tom Leas, IDEM from John Dillon, Division Manager at Liberty Tire saying "I wanted to let you know we are going to work with Steven Groves and FIT disposal in Evansville to get the 12 trailer loads of scrap off site. We have been prepaid for two loads of passenger tires which we will be taking to the cement kiln in Louisville, KY to be burned and we will begin taking the truck tires after that. We will extend credit to them for one load, and then it needs to be paid. I have known Steven for 25+ years and am comfortable working this situation to help him out as well as IDEM. If you would let Steven know you heard from me and he can relax a bit as we work through this, I would appreciate it..." (Copy on file)

Frank Schnell said this machine he was supposed to be getting should have been delivered by last October 31st. He said he made a big mistake by not getting a delivery date signed and it got him in trouble as they can see. He said he is the type of individual who trusts people but not anymore. He said this machine is supposed to do 200 tires an hour and they can do the math at how long it would take him to clean it up if he had it. He said he had put pressure on the guy and that is the only reason that he is helping him right now with the cleanup is because the State gave him a grant to buy this machine and they are coming down hard on him because he hasn't delivered the machine. Mr. Schnell said he never would have thought this place would look like this; it disgusts him and it disgusts his wife and family but his hands are tied. He said as far as the mosquitos go, he walked across that property when he first looked at it to rent and behind the property is a little creek with something he can't say running in it and the mosquitos were all over there. He said he isn't saying there aren't mosquitos in the tires but they were there before he got on the property and they were just as bad.

Guy Gentry asked if he is still receiving tires.

Mr. Schnell said they have to receive tires or they don't get paid. He said they are taking tires out too; Liberty has brought two semis in and they have loaded them and they are scheduled to be taken out sometime early this week. He said then they will bring two more semis in and they will keep working on it. He said Mr. Groves is paying for that because he hasn't got the machine to him. He said he paid Mr. Groves with the State grant money for that machine and it has been paid in full. He said that is why Mr. Groves has agreed to pay for the cleanup because he knows what kind of hock he is in. Mr. Schnell apologized for the way it looks and he never intended for it to look this way. He said he doesn't know what else to say.

Guy Gentry said it looks like they have other companies helping out to try to get some of it off there and he is trying to shred some. He asked if he can operate without bringing in more tires until you get it cleaned up.

Mr. Schnell said they have to bring in more tires because they can't operate without a paycheck. He said they are supposed to bring trucks in to get rid of what is there.

Guy Gentry said so they have already been paid for the tires that are there.

Mr. Schnell said that is correct.

Mike Moesner said so essentially they have contracts with other people to bring tires in.

Mr. Schnell said that is correct and he has a lot of the solid waste districts including Dubois, Pike and Warrick Counties but unfortunately he is in this Catch 22 because the guy didn't get him his machine that he has already been paid for.

Marlin Weisheit asked when he thought he would get the machine.

Mr. Schell said no one knows.

Guy Gentry said he isn't sure if Warrick County will want to renew with him the way the property looks right now.

Mrs. Rector said from what she understands, the shredder he has now will not handle certain tires.

Mr. Schnell said that is correct and if they know anything about tire shredders it is a very rough thing to grind a tire. He said one set of knives cost \$10,000 and the set they have in right now aren't very good and he will probably have to landfill the passenger tires to clean up the mess. He said it won't take too long with two trucks going in to clean it up. He again said he never ever intended for the property to look like this.

Mrs. Rector asked if it is the semi tires that the shredder won't handle but it will handle car and truck tires so the semi tires are what is being taken.

Mr. Schnell said they are supposed to get the passenger tires too; that is the agreement because he hasn't supplied the machine.

Mrs. Rector asked how many tires he gets in a month.

Mr. Schnell said it varies. He said he is turning a lot of clients down right now but the ones he has right now he can't turn down or he will have to shut his business down.

Mrs. Rector asked if the building is so full that he can't get the new tires in it.

Mr. Schnell said the building is ... he has other pieces of equipment in there. He said the building may have about 800 – 1000 tires in it.

Amanda Mosiman said that is about all that is allowed inside to which Mr. Schnell said they are allowed 2000 inside.

Mrs. Rector said that is if you don't have any outside but no one has seen inside the buildings so...the buildings are full too...

Mr. Schnell said well, likely, he can't hardly walk, he has problems and it isn't that he didn't want him to come in there...he basically came out and snapped pictures and he didn't think he really wanted to come in; he wanted to get his job done. He said they did not hold him out of the building in any which way today.

Mrs. Rector said IDEM says Mr. Schnell really tries to work with them and she isn't an attorney but she thinks his main problem is something needs to happen to the man who took the grant money but didn't supply the shredder. She said he is in a Catch 22 because he has to keep taking in tires in order to be paid but he is in violation of everything.

Attorney Doll said what he is hearing is he has a commitment where they are going to haul a number of tires off.

Mr. Schnell said all of them; all that are presently on site.

Attorney Doll said but you are just going to fill back up again because he has to accept the tires from his customers because he doesn't want to lose his customers because his business will go out of business without them and he needs the cash flow. He said he is paid by the piece; paid for every tire he takes.

Mr. Schnell said that is correct but what he has done with his new clients is he has adjusted his price per tire. He said before he was grinding them and he would take them down to a place near Mt. Vernon and they would take a semi load of ground stuff a week and they burned it. He said they had a contract with someone who had wooden pallets to supply the wood and FIT supplied the tires to produce the soybeans. He said natural gas prices dropped the bottom out and there went his contract. He said so to justify what he is doing he has increased the price to get rid of the tires.

Attorney Doll said so the original business plan when he first came before the Board was he was going to cut or grind the tires and they were going to be used for other things; fuel sources, playground cover or whatever, but now because of the natural gas pricing he is going to take these tires and quarter them.

Mr. Schnell said they will probably grind them and salvage them. He said you can't put a whole tire in the landfill because it works back up over time. He said what he is going to do if they don't clean them up he is going to take the trim off (sides) and run them through so they don't hold water and it won't take long to clean the mess up but the money...it makes it kind of rough.

Attorney Doll said his only worry is while he is waiting for the delivery of this piece of equipment - he isn't sure why he needs it now because he isn't going to be recycling these tires he is going to landfill them because of the natural gas prices is that true.

Mr. Schnell said yes and no because they are going to develop other markets where they pull the steel out of the sides. He said his son is graduating from IU and he is coming back on to the business in about two months. He said they are going to revamp everything and go for a little higher dollar apiece of material that they can sell. He said that is going to take some time. He said right now he has increased the price per tire that he picks up to be able to cover the cost.

Attorney Doll said his recollection was the agreement was he couldn't store any tires what so ever on the outside of the building that is their code, their law. He said what he does with the tires-he understands there is a limitation as to the number he is supposed to have inside the building based on the square footage if he recalls the ordinance. He said frankly he doesn't think they care as much about how much is inside the building but he thinks if they get the tires off the property by these other people taking them away within the next say thirty days; he doesn't think he can re-stack new, used tires outside the building and avoid a violation from Warrick County.

Mrs. Rector stated it is the State Fire Marshall who regulates the number inside.

Mr. Schnell said they will not be doing that. He will shut it done before....

Attorney Doll said as long as there are no tires outside the building he doesn't know if this Board is going to cite him for a violation.

Mike Moesner said as he hears what is being said he is trying his best to get rid of all these tires that are outside and he will be in a position...

Mr. Schnell said financially wise he will be...(inaudible)

Mike Moesner said he will be able to take them and put them inside if he has to.

Mr. Schnell said either that or landfill them because he will be able to pay the landfill bill.

Attorney Doll said they can't be stacked outside while he is processing them to get them to the landfill.

Mr. Schnell said they are supposed to be coming in to clean the property up – that is the agreement.

Attorney Doll said he just wants to make it clear that if the neighbors complain because he is stacking tires outside the building until he gets them cut so he can take them to the landfill, it is still a violation of the ordinance. He said as the attorney for the Board it is his job to go to court and enforce the ordinance.

Mr. Schnell said he agrees and he has no problem with what he is saying.

Attorney Doll said then it is up to the Board to decide if they wish to give him additional time to come into compliance.

Marlin Weisheit said he would have no problem allowing him 30 days.

Amanda Mosiman said she agrees. She said he is stuck between a rock and a hard place; IDEM is trying to work with him and so should they.

Attorney Doll said no one asked if 30 days is enough.

Discussion ensued over how much time it would take as opposed to what was said in the email.

Larry Willis said he would like to give him until the May meeting; that would give him almost 60 days.

Mr. Schnell said if he doesn't have it cleaned up in 60 days his wife will kill him.

Larry Willis said an independent businessman trusted a supplier to supply a machine to him and he didn't receive it in a timely manner and his recourse is to either sue the guy and get his money back or wait for the product. He said he thinks he needs at least until the May meeting.

Marlin Weisheit asked if he would make that into a motion.

Larry Willis made a motion to grant him until May 11th to get the outside tires removed and have the inspector go back to the property. The motion was seconded by Marlin Weisheit and unanimously carried.

Attorney Doll advised him he had until May 11th to get the tires from outside removed and if he doesn't have them gone he best be calling the staff in advance that it won't be cleaned up and why and what his idea is about fixing it.

PROPOSED ORDINANCE CHANGES:

Building construction (re-construction) after "R-O"-W taking *Con't from January 9, 2012 & February 13, 2012*

Mrs. Rector said a person called the office because they own a lot on SR 261 and the State has taken additional right of way and now the house no longer meets the setbacks. She said if they need to add on to the house they have to come for a Variance because the State (or County) has made the property non-conforming.

Discussion ensued over this with it being the consensus of the Board they would handle each on a case by case basis.

Churches requiring a Special Use & required zoning classifications *Con't from January 9, 2012 & February 13, 2012*

Mrs. Rector said that she and Attorney Doll have discussed this and she is suggesting that they no longer require a church to get a Special Use because that is against the Federal ruling and that they allow them in all zoning classifications. She said however, they still can require them to obtain permits and if they don't meet an ordinance they can apply for a Variance but can't think of any reason as to why they could deny a Variance for them.

Attorney Doll said the government has to prove a compelling public interest to deny a Variance for them. He said he can't think of any cause to deny a religious petition for a Variance on any project not without violating Federal Law and subjecting the County to a lawsuit.

Guy Gentry said if a sign is blocking the view for safety purposes he would go to court.

Attorney Doll said this law shifts the burden and so instead of them proven it doesn't the County has to prove that it does.

Guy Gentry said he thinks that is what they should have to do.

Mrs. Rector said she will send them all the information she looked up so they will have it and understand it better when the ordinances come before them.

Definition of Home Occupation

Mrs. Rector said they have some information in their packets. She said she sent it to Guy, Larry and Morrie and asked them to respond if they had any changes and no one replied.

Attorney Doll recommended they table this item because he is reading what home occupations are in other Indiana towns and communities to make sure they are not dis-advantaging businesses in comparison to their compatriots.

Mrs. Rector said they aren't because she looked up over 50 cities and different ordinances and most of them have different home occupation classifications.

Attorney Doll said Indianapolis has where a doctor can be a home occupation.

Mrs. Rector said they have different grades of home occupations but they can table this if they want.

Attorney Doll said that is up to the Board.

Marlin Weisheit made a motion to let Attorney Doll review it more. The motion was seconded by Brad Overton and unanimously carried.

ATTORNEY BUSINESS:

EXECUTIVE DIRECTOR BUSINESS:

Being no other business the meeting adjourned at 7:40 p.m.

Guy Gentry, President

ATTEST:

Sherri Rector, Executive Director